

REMARKS

Claim Amendments

Claims 22-41 are pending and newly added. Claims 2, 3, and 5-20 are canceled without prejudice or disclaimer to the subject matter therein. Claims 1, 4, and 21 were previously canceled. Applicants reserve the right to file one or more divisional and/or continuation applications to the canceled subject matter.

Support for the amendments are found throughout the specification and in the claims as originally filed. *See e.g.*, Specification, page 9, lines 18-25; page 10, line 26 to page 11, line 9; page 17, line 26 to page 19, line 6; page 23, lines 12-18; page 29, lines 12-17; page 32, lines 24-30; page 34, line 27 to page 35, line 2; pages 47-48; Examples; original claims 1-6 and 8-17. Applicants respectfully submit the above amendments do not constitute new matter.

Statement of Substance of Interview Under 37 C.F.R. § 1.133(b)

In accordance with 37 C.F.R. § 1.133(b) and M.P.E.P. § 713.04, Applicants herein provide a summary of the interview conducted on January 26, 2009 with Examiners Phuong Bui and Brent Page. Applicants greatly appreciate the courtesies extended by the Examiners.

During the interview, Applicants' representatives and the Examiners discussed the claimed invention, the restriction to a single nucleic acid sequence, and several of the rejections.

Applicants explained that the claimed invention relates to plant cells and plants comprising foreign molecules that reduce the expression of genes encoding the SSIII, BEI and BEII proteins. Applicants further explained that because the invention relates to a plant cell comprising three foreign nucleic acid molecules, the prior art of Edwards does not anticipate the claimed invention. Finally, Applicants pointed out support for the recitation of 95% identity with specific amino acid sequences.

The Examiners suggested amending the claims to recite that the plant cells comprise at least three foreign nucleic acid molecules. The Examiners also indicated that (i) the restriction to single sequence (SEQ ID NO: 3) would be withdrawn; (ii) the new matter rejection would be withdrawn; and (iii) the anticipation rejection would be withdrawn.

Election/Restriction

As discussed above, the Examiners withdrew the restriction to SEQ ID NO: 3. Applicants appreciate the withdrawal of this aspect of the restriction requirement.

Specification

The Office Action objects to paragraphs 35 and 38 of the specification because they purportedly contain embedded hyperlinks and/or other forms of browser-executable code.

Applicants respectfully submit that the embedded hyperlinks and/or other forms of browser-executable code were deleted in the Preliminary Amendment filed November 29, 2005. Accordingly, Applicants respectfully request withdrawal of the objections to the specification.

Claim Rejections – 35 U.S.C. § 112, 1st Paragraph (New Matter)

Claims 2-3, 5-9, 14-16, and 20 stand rejected under 35 U.S.C. § 112, 1st paragraph as allegedly failing to comply with the written description requirement. Specifically, the Office Action asserts that the specification does not contain any mention of sequences with 95% identity to particular SEQ ID NOs.

Applicants respectfully disagree and traverse this rejection.

Applicants submit that the specification provides adequate written description support for the recitation of sequences with 95% identity to particular SEQ ID NOs. *See, e.g.*, Specification, page 23, lines 12-18 (reciting the use of sequences with 95% identity) in combination with page 47 (listing specific SEQ ID NOs).

In view of the foregoing, Applicants respectfully request withdrawal of this rejection.

Claim Rejections – 35 U.S.C. § 112, 1st Paragraph (Enablement)

Claims 2-3, 5-9, 14-16, and 20 stand rejected under 35 U.S.C. § 112, 1st paragraph, because the specification, while being enabling for the use of SEQ ID NO: 2 in antisense orientation for the reduction of SSIII, allegedly does not reasonably provide enablement for sequences encoding amino acids with only 95% identity for the reduction of SSIII.

Applicants respectfully disagree and traverse this rejection.

Applicants submit that the specification and knowledge in the art teach one of skill know how to make and use sequences with 95% identity to SEQ ID NOs: 3, 5, and 7. Indeed, the specification teaches that computer programs are available to test and determine percent identity to particular sequences (e.g., SEQ ID NOs: 3, 5, and 7). *See, e.g.*, Specification, pages 13-14. The specification also teaches that methods of reducing expression (e.g., using antisense sequences, co-suppression, etc.) are well known in the art. *Id.* at pages 22-27. The specification further teaches methods of making transgenic plants comprising sequences that reduce the expression of SSIII, BEI, and BEII, as well as methods of testing SSIII, BEI, and BEII activity. *Id.* at page 58, line 27 to

page 62, line 5. The specification also teaches methods of extracting and testing starch obtained from the transgenic plants. *Id.* at pages 62-71.

In view of the foregoing, Applicants respectfully request withdrawal of this rejection.

Claim Rejections – 35 U.S.C. § 112, 1st Paragraph (Written Description)

Claims 2-3, 5-9, 14-16, and 20 stand rejected under 35 U.S.C. § 112, 1st paragraph as allegedly failing to comply with the written description requirement.

Applicants respectfully disagree and traverse this rejection.

As discussed above, the specification describes sequences with 95% identity to SEQ ID NOs: 3, 5, and 7. The specification also discloses various SSIII, BEI, and BEII proteins including specific domains. *See, e.g.*, Specification, page 12, line 21 to page 13, line 6; page 14, line 25 to page 16, line 27. As such, Applicants submit that the specification adequately describes the full scope of the claimed invention.

In view of the foregoing, Applicants respectfully request withdrawal of this rejection.

Claim Rejections – 35 U.S.C. § 112, 2nd Paragraph

Claims 3, 6-8, 14, and 16 stand rejected under 35 U.S.C. § 112, 2nd paragraph as allegedly lacking antecedent basis.

Applicants have deleted claims 3, 6-8, 14, and 16, thereby rendering this rejection moot.

Claim Rejections – 35 U.S.C. § 102(b)

Claims 2-3, 5-9, 14-16, and 20 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Edwards et al. (WO 99/66050).

As discussed above, the claimed invention relates to a plant cell comprising a first, second, and third foreign nucleic acid molecule that reduce the expression of a gene encoding a SSIII, BEI, and BEII protein, respectively. Edwards, however, relates only to the SSIII potato gene. Accordingly, because Edwards does not teach a plant cell comprising a first, second, and third foreign nucleic acid molecule, Edwards does not anticipate the claimed invention.

In view of the foregoing, Applicants respectfully request withdrawal of this rejection.

CONCLUSION

It is believed that these amendments and remarks should place this application in condition for allowance. A notice to that effect is respectfully solicited.

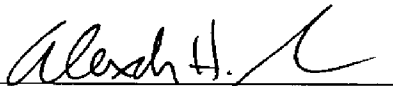
If the Examiner has any questions relating to this response or the application in general, then he is respectfully requested to contact the undersigned so that prosecution of this application may be expedited.

Respectfully submitted,

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